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09/936,700	02/06/2002	Patrick Schmitt	1723	9260

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EXAMINER

POLK, SHARON A

ART UNIT

PAPER NUMBER

2836

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,700

Applicant(s)

SCHMITT ET AL.

Examiner

Sharon Polk

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other:

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on February 6, 2002 has been considered by the examiner.

### ***Drawings***

3. The drawings are objected to because fig. 2 contains black boxes (10, 12, 30, 32, 34) should be labeled. Also, the graphs should be labeled. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claims 8-14 are objected to because of the following informality: According to MPEP § 608.01 (m) Form of Claims, where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. See also 37 CFR 1.75(i). Appropriate correction is required.

The examiner notes applicant cancelled all claims (1-7), and requested substitution of those claims. However, newly submitted claims, numbered 1-7, have been renumbered 8-14, per Rule 1.26.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 8, it is unclear what is being claimed. As understood the claimed device has a sensor having two components, a global sensor, and a directional sensor. The claimed device also has an evaluation device, which compares the values of the sensor with a threshold value and if the value is too low (undershot) the vehicle lights are turned on. However, the remainder of the claim is not understood. In particular, detecting the current temperature of the sensor device being delivered to the evaluation service, and further the temperature-dependent basic signals stored in memory without light incidence (???). Additionally the correction signals of the sensor device, and threshold values is not understood. In essence the examiner respectfully ascertains that the crux of the invention has been lost within the claim. The examiner queries what are the "basic signals," and further why are they stored in memory, and how, and for what purpose are they then corrected?

Additionally, claim 8 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the sensor device, the evaluation device, current temperature sensor, and the memory.

With regard to claims 9-14, since according to claim 8, the threshold values are effected in accordance with the basic signals, is not understood, the remaining claims referencing the claimed threshold values is not understood as well.

With regard to claim 12, it appears that the claim is indefinite because of the phrase "is at least approximately constant." What exactly does that mean as it relates to the clock frequency?

**The following art rejection is given as best understood in light of the 35 USC § 112 rejection, second paragraph.**

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loth, US 6,304,035, in view of Rosenblum, US 4,236,099, and Chang, US 4,665,321.**

With regard to **claim 8**, Loth teaches a device for automatically switching lighting devices in vehicles (fig. 1), having a sensor device (3) by which the light intensity in the surroundings of the vehicle is detected, wherein the sensor device (3) has at least one global sensor (e.g., 3, abstract), by which the general light intensity in the surroundings of the vehicle is detected nondirectionally, and having an evaluation device (1), by which the signals of the sensors of the sensor device (3) are compared with threshold values, and if at least one of the threshold values (SE) is undershot the lighting devices (7) are switched on (e.g., abstract, 2:64-67, 3:1-59).

Loth is silent regarding memory storage of any signals. However, official notice is taken that CPU (central processing units) have memory. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store signals in the memory for the purpose of ensuring accurate data.

Loth teaches the claimed device except for the directional sensor. However, Rosenblum teaches or fairly suggests that feature (e.g., 38, 4: 33-36, 47-54). One of ordinary skill in the art at the time the invention was made would have been motivated to modify Loth with the claimed directional sensor as taught by Rosenblum for the purpose of controlling the on/off state of the intensity of light emanating from the headlights of a moving vehicle (1:17-18).

Loth also lacks the teaching of a temperature sensor. However this feature is taught or fairly suggested by Chang et al. (e.g., abstract, 54-68). One of ordinary skill in the art at the time the invention was made would have been motivated to further modify Loth with temperature sensor as taught by Rosenblum for the purpose of providing an automatic control system which compensates for the variation in ambient temperature (1:63-66).

With regard to **claim 11**, Loth teaches or fairly suggest evaluation device (1) is supplied with a signal for the current speed of the vehicle, and that the processing of the signals of the sensors of the sensor device by the evaluation device (1) is effected in clocked fashion as a function of the speed of the vehicle, in such a manner that the processing at high speed is done at a higher clock frequency than at low speed (e.g., abstract, fig. 1, 1:27-2:24).

**Claims 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loth, Rosenblum, and Chang et al. as applied to claims 8 and 11 above, and further in view of Wallrafen, US 5,140,223.**

With regard to **claims 13 and 14**, Loth, Rosenblum, and Chang et al. teach the claimed device, but lack the teaching of a precipitation detector, and variation of the threshold values in relation to the presence, intensity, or absence of precipitation. However, Wallrafen teaches or fairly suggests these features (e.g., abstract, figs. 1-3, 1:38-46, 2:38-68). One of ordinary skill in the art at the time the invention was made would have been motivated to further modify Loth with the precipitation detector, and further threshold variation for the purpose of permitting control of windshield wiper as a function of intensity of the rain without error introduced by long-term drifts, manufacturing tolerances, and vehicle-specific differences (1:19-27).

#### ***Citation of Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Nos. 3,879,617, 5,780,973, 5,909,172, 5,998,929 disclose similar inventions.

#### ***Communication with the PTO***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Polk whose telephone number is 703-308-6257. The examiner can normally be reached on M-F 7-3:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 703-308-3119. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

sp  
August 11, 2003



BRIAN SIRCUS  
SUPERVISORY PATENT EXAMINER  
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